



April 24, 2000

Ms. Doreen Wheeler
Assistant General Counsel
Office of Consumer Credit Commissioner
2601 N. Lamar Boulevard
Austin, Texas 78705

OR2000-1592

Dear Ms. Wheeler:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134499.

The Office of the Consumer Credit Commissioner (the "commissioner") received a written request for "all complaints and details about the complaint against" four named businesses. You state that some of the requested information has been released to the requestor. You seek to withhold certain other information pursuant to sections 552.101 and 552.130(a)(2) of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

In Open Records Decision No. 373 (1983), this office addressed the availability of personal financial information submitted to a city by an applicant for a housing rehabilitation grant. In that decision, this office concluded:

all financial information relating to an individual -- including sources of income, salary, mortgage payments, assets, medical and utility bills, social security and veterans benefits, retirement and state assistance benefits, and credit history -- ordinarily satisfies the first requirement of common law privacy, in that it constitutes highly intimate or embarrassing facts about the individual, such that its public disclosure would be highly objectionable to a person of ordinary sensibilities.

Open Records Decision No. 373 at 3.

Although information regarding a financial transaction between an individual and a governmental body is a matter of legitimate public interest, and thus does not come under the protection of common-law privacy, *see* Open Records Decision Nos. 590 at 3 (1991), 523 at 3-4 (1989), common-law privacy generally protects the “background” financial information of the individual, that is, information about the individual’s overall financial status and past financial history, as well as information reflecting an individual’s personal financial decisions.

The documents you submitted to us for review contain information about individuals’ financial and credit history. This information reveals information about individuals’ personal finances such as bank account balances, bank account numbers, personal credit matters, and other personal financial information. We conclude that this type of information is highly intimate or embarrassing. Moreover, the requestor of the information you have provided has not made a particularized showing that would make the individuals’ personal financial information a matter of legitimate public concern. We conclude, therefore, that the commissioner must withhold such information from the public pursuant to section 552.101 of the Government Code.

We agree that most of the information you have marked, including Attachment “B” in its entirety, must be withheld from the public pursuant to common law privacy. However, we have marked a few small portions of the documents at issue that do not reveal any information about any individual’s personal finances and thus does not come under the protection of common law privacy. The information we have marked must be released to the requestor.

Finally, section 552.130(a)(2) of the Government Code requires the withholding of information relating to “a motor vehicle title or registration issued by an agency of this state.” We agree that the commissioner must withhold pursuant to section 552.130(a)(2) all vehicle identification numbers and title numbers contained in the documents at issue.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.¹

¹We additionally note that in reaching our conclusion here, we assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

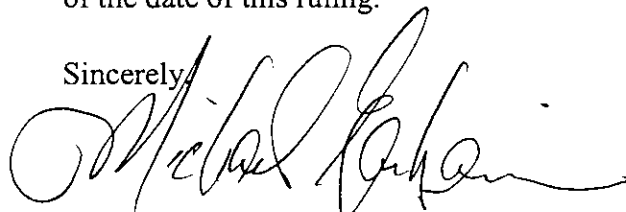
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Garbarino", written over a horizontal line.

Michael Garbarino
Assistant Attorney General
Open Records Division

MG/RWP/ch

Ref: ID# 134499

Encl. Submitted documents

cc: Ms. Sandra L. Handly
20803 Union Park
Katy, Texas 77450
(w/o enclosures)